

REMARKS

Claims 9 and 11-19 are all the claims pending in the application. Claim 9 has been amended to incorporate the recitation of claim 10, and claim 10 has been canceled, accordingly. Entry of the amendment is requested, respectfully.

A. Claim Rejections - Double Patenting

The Examiner issues a provisional nonstatutory double patenting rejection over claims 1, 2, 4, 5 and 7-12 of co-pending application No. 12/182,772.

The Examiner is requested to hold this rejection in abeyance, because on October 19, 2010, USAN 12/182,772 will become abandoned as of July 19, 2010.

B. Claim Rejections - 35 U.S.C. § 103

Claims 9-11, 18 and 19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Leitz *et al.* (4,877,627).

The Examiner's position is that Leitz *et al.* teaches that soluble dietary fiber is associated with a reduction of lipoproteins, serum cholesterol and glucose intolerance. The Examiner views the teaching of reduction of glucose intolerance as reading on a decrease in glucose absorption that results in elevated blood glucose. The Examiner concedes that Leitz *et al.* does not teach the active step of administering the composition to an individual in need thereof, but concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to administer the cited composition to a person in need of inhibiting elevated blood glucose levels. The Examiner further concludes that one of ordinary skill in the art would have recognized that the benefits of improved blood glucose levels can decrease the risk of insulin resistance and type II diabetes.

Initially, Applicants believe that the Examiner thinks that the acerola "pulp" used in the reference is the fruit or leaf of acerola. This understanding, however, is not correct. The term "pulp" in the technical field pertinent to the present invention is used to mean "the soft succulent portion of a fruit" as evidenced by a dictionary, McGraw-Hill Dictionary of Scientific and Technical Terms, Fifth Edition. Please see the attached copy of page 1605 of the dictionary. The Leitz document is silent about "leaf" of acerola. Those skilled in the art would not understand that the acerola "pulp" means the leaf of acerola. Thus, the basis of the Examiner's position is not correct.

Thus, Leitz *et al.* does not teach the use of acerola leaf extract or a processed product thereof. Rather Leitz *et al.* only teaches the use of a nutritional high fiber composition, of which only 30 to 48.5% is fiber derived from fruit and vegetable groups, wherein at least one of the fibers from the fruit and vegetable groups is selected from the group consisting of lemon, acerola and carrot. The current claims recite the use of acerola leaf extract, which is composed of more than soluble fibers. Leitz *et al.* also does not teach the use of products that comprise polyphenols, as now recited in claim 9. Therefore, Leitz *et al.* can not be said to motivate one of ordinary skill in the art to use acerola leaf extract to inhibit blood glucose level elevation. Rather, in order to obtain this element of the present claims, the Examiner, relies on hindsight. That is, only by reference to the present specification can the Examiner state that acerola leaf extract should inhibit blood glucose level elevation. Leitz *et al.* does not in any way teach or suggest inhibiting blood glucose level elevation using acerola leaf extract.

In view of the above remarks and amendments to the claims, the Examiner is requested, respectfully, to reconsider and remove this rejection.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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pulmonary stenosis [MED] Narrowing of the orifice of the pulmonary artery. ['pülmə,nérē stə'nōsəs]

pulmonary valve [ANAT] A valve consisting of three semilunar cusps situated between the right ventricle and the pulmonary trunk. ['pülmə,nérē 'valv]

pulmonary vein [ANAT] A large vein that conducts oxygenated blood from the lungs to the heart in tetrapods. ['pülmə,nérē 'vēn]

pulmonary ventilation [PHYSIO] The volume of gas entering and exiting the lungs per unit time of respiration. ['pülmə,nérē ,ventr'lāshən]

Pulmonate [INV ZOO] A subclass of the gastropod mollusks which contain the "lung"-bearing snails; the gills have been lost and in their place the mantle cavity has become a pulmonary sac. ['pülmə'nātət]

pulp [ANAT] A mass of soft spongy tissue in the interior of an organ. ['pülp] The soft succulent portion of a fruit. ['fēnō] See slime. [MATER] The cellulosic material produced by reducing wood mechanically or chemically and used in making paper and cellulosic products. Also known as wood pulp. ['pülp]

pulpboard [MATER] Chipboard to which is added a percentage of mechanical wood pulp. ['pülp ,bōrd]

pulp cavity [ANAT] The space within the central part of a tooth containing the dental pulp and made up of the pulp chamber and a root canal. ['pülp ,kav'ədē]

pulp chamber [ANAT] The coronal portion of the central cavity of a tooth. ['pülp ,chām̄bər]

pulper [MCHI ENG] A machine that converts materials to pulp, for example, one that reduces paper waste to pulp. ['pülpər]

pulping [ENG] Reducing wood to pulp. ['pülp̄p]

pulp molding [ENG] A plastics-industry process in which a resin-impregnated pulp material is preformed by application of a vacuum, after which it is oven-cured and molded. ['pülp ,mōld̄n̄g]

pulpotomy [MED] Surgical removal of the pulp of a tooth. ['pülp,tōm̄ē]

pulpetstone [MATER] A block of sandstone cut into wheels for grinding, especially wood pulp in paper manufacture. ['pülp,ston]

pulpwood [MATER] Any wood that can be reduced to pulp. ['pülp,wd̄]

pulsar [ASTROPHYS] A celestial radio source, emitting intense short bursts of radio emission; the periods of known pulsars range between 33 milliseconds and 3.75 seconds, and pulse durations range from 2 to about 150 milliseconds with longer-period pulsars generally having a longer pulse duration. ['pülsər]

pulsation [PHYS] Angular velocity in radians, equal to 2π times frequency in hertz. ['pülsāshəns]

pulsating current [ELEC] Periodic direct current. ['püls,ād̄r̄nt̄]

pulsating electromotive force [ELEC] Sum of a direct electromotive force and an alternating electromotive force. Also known as pulsating voltage. ['püls,ād̄r̄t̄ i'ləktrō,mōd̄f̄s̄]

pulsating flow [ENG] Irregular fluid flow in a piping system often resulting from the pressure variations of reciprocating compressors or pumps within the system. ['püls,ād̄iŋ 'flō]

pulsating star [ASTRON] Variable star whose luminosity fluctuates as the star expands and contracts; the variation in brightness is thought to come from the periodic change of radiant energy to gravitational energy and back. ['püls,ād̄iŋ 'st̄r̄]

pulsating voltage See pulsating electromotive force. ['püls,ād̄iŋ 'vōlt̄j̄]

pulsation [PHYSIO] A beating or throbbing, usually rhythmic, of the heart or an artery. ['püls̄shən̄]

pulsation dampening [ENG] Device installed in a fluid piping system (gas or liquid) to eliminate or even out the fluid-flow pulsations caused by reciprocating compressors, pumps, and such. ['püls̄shən̄,dāmp̄n̄g]

pulsation welding See multiple-impulse welding. ['püls̄shən̄ ,weld̄n̄]

pulse [PHYS] A variation in a quantity which is normally constant; has a finite duration and is usually brief compared to the time scale of interest. [PHYSIO] 1. The regular, recurrent, palpable wave of arterial distention due to the pressure of the blood ejected with each contraction of the heart. 2. A single wave. ['püls̄]

pulse altimeter [ENG] A device which is used to measure the distance of an aircraft above the ground by sending out radar signals in short pulses and measuring the time delay between the leading edge of the transmitted pulse and that of the pulse returned from the ground. ['püls̄ al'tim̄r̄]

pulse amplifier [ELEC] An amplifier designed specifically to amplify electric pulses without appreciably changing their waveforms. ['püls̄ ,amp̄l̄fr̄]

pulse amplitude [PHYS] The peak, average, effective, instantaneous, or other magnitude of pulse, usually with respect to the normal constant value; the exact meaning should be specified when giving a numerical value. ['püls̄ ,amp̄l̄d̄]

pulse-amplitude discriminator [ENG] Electronic instrument used to investigate the amplitude distribution of the pulses produced in a nuclear detector. ['püls̄ ,amp̄l̄d̄ di'skrim̄n̄,ām̄d̄r̄]

pulse-amplitude modulation [COMMUN] Amplitude modulation of a pulse carrier. Abbreviated PAM. ['püls̄ ,amp̄l̄d̄ ,mōd̄]

pulse-amplitude modulation-frequency modulation [COMMUN] System in which pulse-amplitude-modulated subcarriers are used to frequency-modulate a second carrier; binary digits are formed by the absence or presence of a pulse in an assigned position. ['püls̄ ,amp̄l̄d̄ ,f̄req̄wān̄,ām̄d̄]

pulse analyzer [ELECTR] An instrument used to measure pulse widths and repetition rates, and to display on a cathode-ray screen the waveform of a pulse. ['püls̄ ,ān̄āl̄īzər̄]

pulse bandwidth [COMMUN] The bandwidth outside of which the amplitude of a pulse-frequency spectrum is below a prescribed fraction of the peak amplitude. ['püls̄ ,band̄,width]

pulse beating [COMMUN] Intermodulation of pulse-modulated waves. ['püls̄ ,bēt̄in̄]

pulse cable [COMMUN] A communications cable, capable of transmitting pulses without unacceptable distortion. ['püls̄ ,kābl̄]

pulse carrier [COMMUN] A pulse train used as a carrier. ['püls̄ ,kār̄īr̄]

pulse circuit [ELECTR] An active electrical network designed to respond to discrete pulses of current or voltage. ['püls̄ ,cīrc̄t̄]

pulse code [COMMUN] A code consisting of various combinations of pulses, such as the Morse code, Baudot code, and the binary code used in computers. ['püls̄ ,kōd̄]

pulse-coded scanning beam [NAV] 1. A radio or radar beam which is swept over a sector of space and is accompanied by a repeated pattern of pulses that is varied to indicate the position of the beam in space. 2. A system of ground equipment that generates such beams at microwave frequencies to furnish guidance to aircraft making microwave landings. Abbreviated PCSB. ['püls̄ ,kōd̄-d̄ ,skān̄iŋ ,bēm]

pulse-code modulation [COMMUN] Modulation in which the peak-to-peak amplitude range of the signal to be transmitted is divided into a number of standard values, each having its own three-place code; each sample of the signal is then transmitted in the code for the nearest standard amplitude. Abbreviated PCM. ['püls̄ ,kōd̄ ,mōd̄]

pulse-code modulation television [COMMUN] A television system in which digital signals using a pulse code are transmitted, rather than analog signals. ['püls̄ ,kōd̄ ,mōd̄ ,tēl̄vīz̄shən̄]

pulse coder See coder. ['püls̄ ,kōd̄-r̄]

pulse coding and correlation [COMMUN] A general technique concerning a variety of methods used to change the transmitted waveform and then decode upon its reception; pulse compression is a special form of pulse coding and correlation. ['püls̄ ,kōd̄-in̄ ,kōr̄l̄ashən̄]

pulse column [CHEM E&O] Continuous-phase process column (such as liquid only or gas only) in which the flow-through is pulsating; used to increase mass-transfer rates, as in a liquid-liquid extraction operation. ['püls̄ ,kōl̄um̄]

pulse communication [COMMUN] Radio communication using pulse modulation. ['püls̄ ,kā,myǖn̄,kāshən̄]

pulse compression [ELECTR] A matched filter technique used to discriminate against signals which do not correspond to the transmitted signal. ['püls̄ ,kām̄,presh̄-sh̄n̄]

pulse-compression radar [ENG] A radar system in which the transmitted signal is linearly frequency-modulated or oth-